

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN MIKE SPRAGUE**, on January 14, 1999 at 3:00 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Mike Sprague, Chairman (R)
Sen. Ken Miller, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Chris Christiaens (D)
Sen. Dorothy Eck (D)
Sen. Bill Glaser (R)
Sen. Duane Grimes (R)
Sen. Don Hargrove (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Jon Tester (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jodi Pauley, Committee Secretary
Mary Vandebosch, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 74, 1/11/99; SB 38,
1/11/99; SB 142, 1/11/99
Executive Action: SB 1

HEARING ON SB 74

Sponsor: SENATOR KEN MILLER, SD 11, Laurel

Proponents:
Ronda Carpenter, MT Housing Providers

Steve Snezek, MT Assoc. of Realtors
REP. DOUG WAGNER, HD 83, Hungry Horse
Byron Roberts, MT Building Industry Assoc.

Opponents:

Alec Hansen, MT League of Cities and Towns
Lucy Gallus, MT Rural Water Inc.
REP. PAUL SLITER, HD 76, Sommers
Gloria Paladichuk, City of Glendive and Sidney
Paul Torok, Seeley Lake Water District
Bobby Broadway, Sun Prairie Village Water and Sewer
Stacy Newell, Seeley Lake Water District
Myrt Webb, City of Columbia Falls

Opening Statement by Sponsor:

SENATOR KEN MILLER, SD 11, Laurel, said this bill deals with a tenant who contractually signs up for water and sewer services and if he doesn't pay his bills and becomes delinquent, it will not be the responsibility of the land owner to pay for these delinquencies. It will be the person who signed up for it. He said under current law, a tenant can sign up for water and sewer and then leave town and the bill has to be paid for by the landlord or it is placed as taxes. He said other utilities don't do this, they have to be paid by the tenant.

Proponents' Testimony:

Ronda Carpenter, MT Housing Providers, said currently landlords are put in the position of serving as collection agents for city and water sewer systems. This bill eliminates that. A landlord has two choices to decide how utilities are going to be paid for. Either by collecting a high average of everyone within the rental or the tenant pays for his own utilities. If the rental agreement has the utilities paid by the tenant and the tenant quits paying six months down the road, then the gas and utility company comes after the tenant. But the water district comes after the landlord. This bill only applies to singly metered residents and will not be a high cost to cities or water districts. This will not affect areas that have a lot of rental properties with high turnovers or multi-family units. About five percent of the people do not pay their water bills in Billings and this is only four tenths of one percent of the total households that burdens the entire city. Currently, this bad debt is not being passed on to the 50,000 people that live in Billings but to the 200 landlords who have no control over this problem. The problem could also be solved by those who do not have good credit to pay a deposit when signing up for services.

Steve Snezek, MT Assoc. of Realtors, said those who sign up for services should be the ones responsible for paying the bill.

REP. DOUG WAGNER, HD 83, Hungry Horse, said he is a landlord and has been subjected to the people who have left their water bills for him to pay. He said he bought a piece of property recently and before he could have the services turned on, he had to pay an outstanding bill from the previous renter. The city should do a credit check on tenants and require a two month deposit which would have no impact on the cities or towns.

Byron Roberts, MT Building Industry Assoc., said this bill has an adverse effect on housing afford ability, and he urged passage.

Opponents' Testimony:

Alec Hansen, MT League of Cities and Towns, passed out letters of opposition from cities and towns in Montana. **EXHIBIT(los10a01)** He said delinquencies is a problem, but this bill will not solve that. He said in college towns, for example, they have to pay a deposit that is equal to a month's average water rate. He said the property owner is responsible for collecting those bills. And the rental cannot be rented out again until those bills are paid. If the bills are not paid, they go on as a tax against the property, just like tax delinquencies. Water districts cannot be like other utilities because they are much smaller and do not have collecting powers like Montana Power. He said if there are 100 utility customers and 95 percent pay and 5 percent don't, then the ones who pay will end up paying 5 percent more. People who pay their utilities all the time should not be subsidizing the people who do not pay their bills.

Lucy Gallus, MT Rural Water Inc., said if this bill passed it would shift the burden of renters who do not pay their bills to those who regularly pay and to the local water and sewer districts who supply services to everyone. A service that is provided must be paid for. She referred to the fiscal note. Setting up an additional service to do credit checks is not a possibility in many communities and creates too much strain on water and sewer systems.

REP. PAUL SLITER, HD 76, Sommers, said there are many small districts that don't have the ability to keep track of their customers no matter where they are in the state. He said as a landlord, he sees to it that the services that are used on his property are paid for.

{Tape : 1; Side : A; Approx. Time Counter : 3:25 p.m.}

Gloria Paladichuk, City of Glendive and Sidney, said this is an unfair burden upon honest water and sewer taxpayers. She said in the city of Sidney, the city advises the landlord as to when a renter becomes delinquent.

Paul Torok, Seeley Lake Water District, said this bill could increase the debt risk to districts. People not only pay for the water, they pay for debt retirements and fees to stay in compliance with state and federal laws. **SB 74** goes against how they bill in their area as they bill based upon property. This bill also doesn't define renter and how they would be classified.

Bobby Broadway, Sun Prairie Village Water and Sewer, said this bill will create privileged classes of people in the state. This bill discriminates against landlords who provide water and sewer. 60 percent of his district is made up of rentals which is 13 percent of their total revenue. If there is a significant number of these renters that move and the water district couldn't collect, they would not be able to meet their debt service obligation. He questions as to whether the district could do deposits because of CI-75. He asked what happens if they do credit checks and a renter's credit is no good. Can they not provide service? Landlords are not going to agree with this if they have already entered into a rental agreement. Most water districts are very small with the manager and the book-keeper and doing additional credit checks cannot be done or afforded.

Stacy Newell, Seeley Lake Water District, said this bill doesn't specify how the landowner fits in and can he/she have the water turned back on? whenever? She said in their district it costs about \$475 for the owner to get the water turned back on. They have to collect on delinquent charges, administration fees, and back payments.

Myrt Webb, City of Columbia Falls, said in Columbia Falls they have about 1300 connections and about 200 of those are rentals. He said the average bill is about \$41 per month per person. But if someone doesn't pay and by the time they find out to shut the water off, they have run up a bill of around \$62. When they consider the number of delinquencies they lose about \$20,000 per year. Water and sewer systems have extremely high fixed costs and this would hurt their district. That \$20,000 could be used to put in two and a half blocks of water/sewer line, a mechanical upgrade, or the chlorination system needed in his plant. People aren't going to want to have their rates raised just to pay for those who are delinquent.

{Tape : 1; Side : A; Approx. Time Counter : 3:40 p.m.}

Questions from Committee Members and Responses:

SEN. J.D. LYNCH asked how are they losing \$62 per month if they are not using the water. **Myrt Webb** said most of that is not the variable cost of water, it is the fixed cost to pay the debt service etc.

SEN. LYNCH asked what the \$475 was for. **Stacy Newell** said before using the water they charge a filtration debt. She said when a person goes delinquent they don't send out notices until 60 days and will have about \$90 worth of water that has been used on average. A service fee is charged as soon as the water is shut off. In order to turn the water back on, a two month debt deposit, filtration deposit, and a reconnect fee is charged.

SEN. LYNCH asked if it is the landlord who has to pay this \$475 because their renter skipped town. **Stacy Newell** said they would have to pay the past due, but normally they don't have to pay the deposit fees because that is the renter's responsibility.

SEN. LYNCH asked if the city ever notifies the property owner as to when a renter is becoming delinquent. **Alec Hansen** said each city is different and some do notify the landlord of delinquent renters. He said a big problem is in college towns. The best way to address this problem is to build the water and sewer into the rent.

SEN. LYNCH said the real bad guy is not the landowner or the water company, it is the renter. Is there some type of middle ground here. **SEN. MILLER** said he is trying to get at the person who is responsible and the way to do that is to do credit checks, deposits, etc. He said the landlord provides the house they live in. The water and the water company should not go after the landlord, but the tenant. He said most landlords don't figure the utilities into their rent because when the renter has to pay for his own utilities the water usage is lower.

SEN. CHRIS CHRISTIAENS said if the renter leaves in the middle of the night, the landlord is out just as much as the water district. He asked if all water districts wait 60 days until filing delinquency. Why isn't the landlord notified if he is the one that is responsible anyway. **Stacy Newell** said after 60 days the landlord is sent a letter saying the renter is delinquent.

SEN. CHRISTIAENS said the water district has the ability to notify earlier and the landlord should also be notified of the problem. When there is a problem of paying for the utilities there is also a problem of paying the rent. He read line 12, page 2 and said they could file against the renter. **Stacy Newell** said

they do that already. They go after the person who is delinquent, but the water stays off and if the landlord has a new renter he has to pay the delinquency to get it back on.

SEN. CHRISTIAENS asked when **REP. WAGNER** bought his piece of property and he had to pay delinquent charges on it, wouldn't of that bill been found under a title search? **Margaret Morgan, MT Assoc. of Realtors** said she was not sure. **Alec Hansen** said a delinquent water bill is supposed to go on to the tax roles but doesn't for a year and half.

{Tape : 1; Side : B; Approx. Time Counter : 3:55 p.m.}

SEN. JOHN BOHLINGER said people who pay, subsidize those who don't pay. When they look at other utilities, they cannot come after the landlord to make them pay for these services. Other businesses do the same and shouldn't this be the same for water. He asked why aren't these credit losses part of the operating expenses. **Alec Hansen** said they are trying to avoid these losses because they are dealing with public funds. This money is linked to bonds and has to be refinanced. If they cut down the delinquencies then they can keep the rates down.

SEN. BOHLINGER said as a management tool why doesn't the district shut the water off in a more timely matter if payment isn't received. **Alec Hansen** said usually the delinquent person has already left town.

SEN. DALE MAHLUM asked if there is a vacant building, who will receive the bill. **Paul Torok** said the property owner does.

SEN. MAHLUM asked if people don't pay would they leave the water district insolvent? **Bobby Broadway** said no, but there is the potential with the loss of revenues that there could be an operation insolvency. It would be difficult to pay the debt service and the operation costs.

SEN. MAHLUM asked if it was the intention of water districts that if they don't get the renter's money they need the landlord's money to stay solvent. **Bobby Broadway** said that was correct.

SEN. DUANE GRIMES asked if all major subdivisions are water districts?

Bobby Broadway said he didn't know if all subdivision are covered under water districts. But in his water district all subdivision are under the public water supply.

Closing by Sponsor:

SEN. MILLER said good practices will result in very small losses. He referred to some of the letters of opposition. **EXHIBIT (1)** He said they do need an amendment to define a renter.

{Tape : 1; Side : B; Approx. Time Counter : 4:05 p.m.}

HEARING ON SB 38

Sponsor: **SEN. ALVIN ELLIS, SD 12, Red Lodge**

Proponents:

Jim Fall, MT Newspaper Assoc.

Verle Rademacher, MT Newspaper Assoc.

Mike Voeller, Lee Newspapers

Robert Throssell, MT Clerk and Recorders Assoc.

Opponents: None

Opening Statement by Sponsor:

SEN. ALVIN ELLIS, SD 12, Red Lodge, said this bill will change the position of candidates names as they appear on the ballot. He said under current law they rotate the names on the ballot, so candidates all have an opportunity to appear first on the ballot. He said under this bill they would put the names in the order in which they file. He referred to the fiscal note and this would actually create a savings for counties. He said most voters know who they are voting for and being first on the ballot doesn't really matter. If a candidate is worried about this all they have to do is file first to be on top of the ballot.

Proponents' Testimony:

Jim Fall, MT Newspaper Assoc. stood in support of SB 38.

EXHIBIT(1os10a02)

Verle Rademacher, MT Newspaper Assoc., spoke in favor of SB 38.

EXHIBIT(1os10a03)

Mike Voeller, Lee Newspapers, said they support this bill.

Robert Throssell, MT Clerk and Recorders Assoc., said this would speed up the election process, eliminate problems and save taxpayer's money.

{Tape : 1; Side : B; Approx. Time Counter : 4:15 p.m.}

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. LYNCH asked if this was a vote taken at the Clerk and Recorders Convention not to rotate the names. **Robert Throssell** said this is the position of the association.

SEN. LYNCH said he has been in races where his position on the ballot is extremely important. He asked if this applies to federal races as well. **SEN. ELLIS** said yes.

SEN. LYNCH asked if being sixth on the ballot wouldn't matter in the amount of votes received. **SEN. ELLIS** said there are very few people in the State of Montana who vote for the first name that appears on the ballot.

SEN. GRIMES asked what other methods were available in putting this bill together such as alphabetical etc. **SEN. ELLIS** said he chose this method because of fairness.

SEN. BILL GLASER said the position on the ballot is important and is an equity issue and is there any advantage to being first on the ballot. **Mike Voeller** said no he doesn't think there is an advantage because of campaigning, etc.

SEN. GLASER said the legislature shall provide purity in elections and this could be a constitutional issue. **Mr. Voeller** said they would have to define what a pure election is and would placement on a ballot make it an impure election.

CHAIRMAN MIKE SPRAGUE said the rotation may be a problem, but what about having them alphabetical? **Mr. Voeller** said he can sympathize with this, but he used the example of water rights in which it is first in time, first in right.

SEN. DOROTHY ECK said this bill doesn't address whether they file with the Secretary of the State or County Clerk and Recorder.

SEN. ELLIS said with different elections they are required to file in different places depending on what the candidate is running for.

SEN. GRIMES asked if the issue here is that the printers only want to do one printing no matter which name is where? **Verle Rademacher** said printing is much more complicated under the offset method of production. Whereas if they only had one ballot they would only have to set the printing machine once. When the ballot is printed it is perforated at the top and each is

numbered within each precinct. The clerk and recorder also has to stamp the ballot to make sure they are correct.

SEN. DON HARGROVE asked if this makes any difference to the Secretary of State. **Joe Kerwin, Deputy Secretary of State for Elections**, said they have some concerns about whether the placement on the ballot does have some impact. Another concern is when candidates send in their filings by mail and a lot of filings come on the first day, they would have to be sorted by name or date stamps.

CHAIRMAN SPRAGUE asked if fax filings would be treated the same. **Joe Kerwin** said they are dealing with this in the House right now of being able to accept fax filings. The filings are not complete until the candidate has paid for the filing fees.

SEN. HARGROVE asked if the surname portion of this bill was important. **SEN. ELLIS** said no, this does not have to be in the bill.

SEN. MAHLUM asked if two candidate are waiting to file at 8:00 a.m. in the morning who is going to referee this. **Joe Kerwin** said there are other states that have this similar processes and they would have to police this.

SEN. LYNCH asked on the general ballot are the presidential candidates rotated. **Joe Kerwin** said yes.

SEN. LYNCH asked if whoever holds their convention or files first in Washington DC would be first on the ballot? **Joe Kerwin** said they file in every state for the president and whoever had their convention first would be on the ballot first.

SEN. GRIMES said he would like to know how other states do this. He said there needs to be an element of randomness, but they need to only do one printing for all these small county projects. Can they put in some amendments that create some randomness etc. **SEN. ELLIS** said he had also suggested doing it by lot after they had filed. And if they want to do it alphabetical it is okay.

SEN. LYNCH asked if they had ever considered a local option. **SEN. ELLIS** said he had not considered this.

SEN. CHRISTIAENS asked if this is a constitutional issue. **Joe Kerwin** said there hasn't been any court rulings to give them any guidance. He said in other states there has been cases in which listing the incumbents first along with a fixed rotation was okay.

SEN. CHRISTIAENS asked about independent parties. He said in most cases they don't appear on primary ballots and if this bill passes, independents will always be on the bottom of the ballot.

Joe Kerwin said in most cases those candidates have a later filing date. But an independent candidate for example has to file in the same period in which everyone else files. Even if they didn't appear on the primary they would still go by the filing date.

Closing by Sponsor:

SEN. ELLIS said he does have a problem with local option because who would decide this. He doesn't see where the date of the national convention enters into this because it is when they filed. He said with the advent of the motor voter law they can no longer purge people from the voter roles in a timely fashion. Therefore a lot of extra ballots have to be printed. There is no way to make this fair no matter what way it is done.

{Tape : 1; Side : B; Approx. Time Counter : 4:45 p.m.}

HEARING ON SB 142

Sponsor: SENATOR SUE BARTLETT, SD 27, Helena

Proponents:

**Glenna Obie, Jefferson Co. Commissioner
Gordon Morris, MACo
Jim Smith, Sheriffs and Peace Officers Assoc.**

Opponents: None

Opening Statement by Sponsor:

SENATOR SUE BARTLETT, SD 27, Helena, said this bill addresses the longevity payment of under sheriffs and deputy sheriffs. Longevity payment amounts are based on an annual salary of under and deputy sheriffs. This bill establishes a range of percentages that are applied to the sheriff's base salary to establish the under and deputy sheriff's salary. The longevity payment is one percent of that base annual salary of an under or deputy sheriff. The current language is confusing and counties do it differently and some are doing it wrong. She had one amendment in which this bill would become effective on passage and approval.

Proponents' Testimony:

Glenna Obie, Jefferson Co. Commissioner, said this is a

clarification and not really a change. Some counties do it one way and others do it another. This needs to be clarified. This causes problems with the auditor when the county is audited over this issue.

{Tape : 1; Side : B; Approx. Time Counter : 4:57 p.m.}

Gordon Morris, MACo, stood in support of **SB 142**.

EXHIBIT(los10a04)

Jim Smith, Sheriffs and Peace Officers Assoc. said they ran the formulas in big and small counties. Deputies who had been there for a long time and others that had been there a short time show no adverse impact.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN MAHLUM said if a sheriff gets \$35,000 per year and has 37 years of service, what would he get? **Gordon Morris** referred to his memo. **EXHIBIT (4)**

Closing by Sponsor:

SENATOR BARTLETT closed on SB 142.

EXECUTIVE ACTION ON SB 1

Discussion:

Mary Vandebosch explained the amendments. **EXHIBIT**(los10a05)

Motion/Vote: **SEN. MAHLUM** moved that **AMENDMENTS FOR SB 1 BE ADOPTED**. Motion carried unanimously.

Motion/Vote: **SEN. HARGROVE** moved that **SB 1 DO PASS AS AMENDED**. Motion carried unanimously.

ADJOURNMENT

Adjournment: 5:02 P.M.

SEN. MIKE SPRAGUE, Chairman

JODI PAULEY, Secretary

MS/JP

EXHIBIT (los10aad)